

# NATIONAL CANNERS ASSOCIATION INFORMATION LETTER

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## GOVERNMENT'S POLICY IN ENFORCEMENT OF McNARY-MAPES LAW

The policy of the Food and Drugs Administration in enforcement of the McNary-Mapes law, particularly with respect to shipments of canned foods containing small percentages of cans grading substandard, is set out in recent correspondence of the Administration, which the Association has been given permission to reproduce for the information of its members.

In answer to a letter received late in September expressing concern over the possible status, under the Mapes amendment, of a block of canned foods which contains an extremely small percentage of cans which grade substandard, P. B. Dunbar, Chief of the Food and Drug Administration, wrote:

I agree with you that if the amendment were enforced so literally as to necessitate the marking of a large block of high quality goods substandard solely because of the presence therein of an insignificant number of cans which fail to grade up to standard, it would not be in the interest of the consuming public or of the canning industry.

We expect to administer the Mapes amendment from the same common sense viewpoint which we hope and believe has been our guide in the past when confronted with almost identical situations which have arisen in connection with the enforcement of the general requirements of the food and drugs act. We cannot lay down a fixed rule regarding the number or proportion of substandard cans which would render a shipment actionable under the Mapes amendment, which would fit all cases. We must consider on its merits each case as it arises.

For example, ordinarily we might, on the basis of a thoroughly representative sample, accept as normal the presence of that number of substandard cans in a standard pack which might unavoidably occur in conducting packing operations under the best commercial practice. We certainly would not, on the other hand, tolerate the presence of any substandard cans which were known to be deliberately mixed with a lot. In the latter event we would unhesitatingly hold a shipment to be violative, and it would be the responsibility of the shipper to sort out and properly label such substandard cans if the shipment as a whole is not to be regarded as misbranded.

In any event you may be assured that formal action under the Mapes amendment will be based upon a comprehensive examination involving, in practically all instances, the collection of a sample of not less than two dozen cans while in a great many cases the sample would be materially larger.

Later, the attention of the Food and Drug Administration was called to a circular issued by the firm to which the foregoing letter was addressed, and the following communication was then sent to the firm by W. G. Campbell, Director of Regulatory Work of the Department of Agriculture:

An inquiring source has brought to my attention an excerpt from what appears to be a circular letter issued by your firm on October 15, 1931, to the trade. That excerpt is as follows:

"We have a letter today from the Food and Drug Division of the U. S. Dept. of Agriculture, which division is the one that enforces seizures on canned goods that do not comply with the McNary-Mapes Law, and they tell us they are going to use common sense in administering this law and go on to make a statement that leads us to believe that if a packer has made an honest effort to pack standard tomatoes to comply with the McNary-Mapes Law; and if when 12 cans are graded out of every 1,000 and it is found that one or two cans might grade off on account of skins or defects, but that if the entire car has the appearance of being packed under good packing conditions, that they do not propose to take any action, so in that case we judge that if 12 cans are examined and two or three cans out of the 12 grade a little off, but the balance of them grade right up, that they are considered Mapes standard tomatoes. We have been selling to speculators who are putting the merchandise in warehouses and they have been having their tomatoes graded in this manner; and, where two or three cans grade off out of 12 and the balance of the cans grade up O. K., they are keepings the cars as complying with the McNary-Mapes Law, and that is all we expect of John Doe or any of your other buyers."

I have read the correspondence which took place between you and the Food and Drug Administration on the subject of the enforcement of the McNary-Mapes amendment. The pertinent correspondence is, I think, a communication from you of September 23 to the Administration in which you discuss the question of rigid enforcement and, among other things, say:

"\* \* \* it is our opinion that if a car of tomatoes is seized and the canner is compelled to label this merchandise substandard because of the fact that an occasional can is found that does not comply with the McNary-Mapes Law that the canning business in the Tri-State territory will be no more after 1931."

Unquestionably it is the Administration's reply of October 13, 1931, to which you allude in your circular. In that letter the Administration said, in effect, that it had no purpose to enforce the McNary-Mapes amendment with that literal-mindedness which would call for the seizure and condemnation, for instance, of a carlot of tomatoes because one or two, or a few, cans might be found to be substandard. It announced that it could not lay down at this time a fast rule applicable to all cases and said:

"For example, ordinarily we might, on the basis of a thoroughly representative sample, accept as normal the presence of that number of substandard cans in a standard pack which might unavoidably occur in conducting packing operations under the best commercial practice. We certainly would not, on the other hand, tolerate the presence of any substandard cans which were known to be deliberately mixed with a lot."

This latter quotation says specifically that a shipment will be regarded to be misbranded if it contains any amount whatever of substandard product as a result of the deliberate act of the canner. But it does not specifically, or impliedly, announce that a shipment containing 20 or 25 per cent

substandard cans will be immune from action, which, I submit, is the impression to be gained from reading your trade circular.

How rigidly and how energetically the McNary-Mapes amendment will be enforced will depend upon the amount of money available to meet the cost of operation. As you know Congress has made no provision whatever in this respect. In all probability, shipments of canned tomatoes and of other products for which standards have been announced are likely to be made this year, and until such time as appropriate funds may be acquired, containing higher percentages of substandard goods than should occur or will occur when the Food and Drug Administration can undertake the enforcement of this amendment in an effective way. Procedure on this assumption, however, involves a distinct risk. While we have announced no tolerance, and for the present intend to announce none, we have studiously refrained from creating the impression that material percentages of substandard goods would be overlooked. There is nothing in our communications to you, or to anyone else, which would justify the issuance of an expression like that carried in your circular letter, involving, as it does in my opinion, a distinct disservice to the trade.

#### FIRST SEIZURE OF LOW-QUALITY TOMATOES

The first seizure of canned tomatoes found to fall below the standards established by the McNary-Mapes amendment to the Federal Food and Drugs Act was made on October 20, when 128 cases packed in No. 10 cans were confiscated because they contained an excessive quantity of skin. The official standard for canned tomatoes designates that the products "shall be considered as peeled when there are not more than 1.5 square inches of peel per pound of net contents."

#### SHOULD DEAL ONLY WITH LEGITIMATE OPERATORS

Racketeering in canned foods has developed in the New York market, according to an article appearing in the Journal of Commerce for October 21st. This article goes on to state:

Some brokers find themselves trying to compete with merchandise shipped by their own packers in irregular fashion to "buyers" here. One lot of merchandise thus shipped to New Jersey was recently sold right on the West Side at half the price the same packer was asking from his accredited sales representatives. Of course, you cannot accuse the packers of anything worse than carelessness. They ship the merchandise in all good faith, expecting to get a fair price for it. Soon it is sold at any price it will bring for a quick sale, and the original "buyers" have either skipped or gone into bankruptcy. The canner is left holding the bag.

Lately there appears to be an organized ring of sharpers here practicing on groups of inexperienced or sorely pressed canners in this fashion. To ship merchandise to this market on open contract to unknown persons is rank craziness. There is not a chance of proving fraud, even if the so-called buyer or buyer's agent is found, which is extremely doubtful. There are all manner of means to cover up loopholes and justify sale of the merchandise, if as is always improbable, the canner engages counsel to start an action, civil or criminal. Rent, foreclosure threats, wages to salesmen, all sorts of expenses can be manufactured to prove forced sales and absence of fraud. But these loopholes are seldom required, for the racketeers are

never even caught. They are in and out, from New Jersey to Manhattan, Manhattan to Queens or Queens to Westchester, cheating the packer not only of his merchandise, but demoralizing the market and making it all the harder for him to sell any of his merchandise later.

Packers can stop it either by refusing to ship merchandise to persons unless they know them to be legitimate operators, or by resorting to the simple expedient of the trust receipt, which at least will hold the returns on their merchandise. As some of these racketeers find it so easy to drop out of sight, however, it seems preferable by far to do business only through regular channels.

#### **SUSTAINS NORTH CAROLINA CHAIN STORE TAX**

The U. S. Supreme Court, by an order entered without opinion on October 25, sustained the validity of the North Carolina chain store tax. The judgment of the Supreme Court of North Carolina was affirmed by the U. S. Supreme Court on the basis of its decision in the Indiana chain store case.

The Supreme Court also affirmed the order of the lower court in the Mississippi chain store case, which restrained the enforcement of the law until the case could be heard on its merits.

#### **SUPPLIES OF QUANTITY RECIPE BULLETIN AVAILABLE**

Copies of the new bulletin furnishing recipes for the use of canned foods in cafeterias and restaurants have been mailed to all members of the Association. Fifty additional copies of this bulletin will be furnished to members free of charge. Larger quantities will be supplied at \$3.75 per 100. The price quoted is the actual cost of printing.

It will be of interest to the members of the Association to know that the War Department has requested 2,000 copies of this bulletin for distribution to its various posts.

#### **FINAL FIGURES ON CALIFORNIA PEACH PACK**

The certified public accountants employed by the Cling Peach Control Committee have completed their audit of the pack of cling peaches made by California canners, and find that the official total is 8,348,652 cases on a No. 2½ basis.

Included in this total are 3,067.08 tons of fruit packed directly into fruits for salad which, on a basis of 46 cases to the ton, represent 141,109 cases. In addition, canners report that they have packed 302,470 cases on the No. 2½ basis (actually in No. 10 cans) into fruits for salad stock for later remanufacture into fruits for salad.

Deducting peaches packed directly into fruits for salad and peaches packed into salad stock, the total number of cases of cling peaches packed to be sold as canned cling peaches was 7,905,073 cases on the No. 2½ basis.

## BULLETIN ON ORCHARD PESTS REVISED

The Department of Agriculture has issued a new publication on orchard pests as Farmers' Bulletin No. 1666-F, entitled "Insecticides, Equipment and Methods for Controlling Insect Pests." The new publication is a revision of Farmers' Bulletin No. 908-F, published thirteen years ago. The bulletin describes insecticides now commonly used, and the best methods of applying them. It also discusses spraying and dusting outfits for both large and small operators, as well as spraying accessories. Copies of the bulletin may be obtained by writing to the Office of Information, U. S. Department of Agriculture, Washington.

## TRUCK SHIPMENTS SHOW AN INCREASE

Carlot movement of fruits and vegetables recently approached nearer to the record of the same week last season. About 26,200 cars of 30 products were shipped during the week ended October 27, or only 6,500 less than the total a year ago.

A feature of produce markets lately has been the active opening of the Florida season for various truck crops. Snap beans and peppers were coming from Florida in good volume, bean shipments alone filling 100 cars, compared with an equal number from the fall crop in other states. Southern California tomatoes met a very active demand.

## CARLOT SHIPMENTS

Commodity	Oct. 18-24, 1931	Oct. 11-17, 1931	Oct. 19-25, 1930	Total this sea- son thru Oct. 24	Total last sea- son thru Oct. 25	Total last season
Apples, total.....	7,676	6,491	8,474	41,295	50,378	109,793
Eastern states.....	4,965	3,538	3,458	22,846	22,075	43,256
Western states.....	2,711	2,953	5,016	18,449	28,303	66,537
Asparagus.....	21	30	7	3,816	2,781	2,780
Beans, snap and lima:						
1932 season.....	98	26	70	124	91	9,113
1931 season.....	99	124	107	9,113	9,440	9,559
Beets.....	3	2	.....	1,590	.....	.....
Cabbage.....	1,326	1,221	1,612	28,429	27,437	38,163
Carrots:						
1932 season.....	86	85	130	258	347	9,693
1931 season.....	105	63	88	9,693	10,395	12,428
Cauliflower.....	201	179	115	1,975	1,768	9,615
Cucumbers.....	50	28	48	6,324	7,362	7,663
Mixed deciduous fruit...	32	25	70	3,496	5,738	5,921
Mixed vegetables.....	290	308	417	24,596	26,633	31,180
Pears.....	368	537	670	17,570	25,833	28,835
Peas (green).....	76	69	34	6,891	6,737	6,800
Peppers:						
1932 season.....	3	.....	3	3	6	2,749
1931 season.....	27	41	81	2,749	2,618	2,796
Plums and prunes.....	8	16	6	6,110	8,716	8,716
Spinach.....	22	28	47	9,508	9,544	9,636
Tomatoes.....	431	438	752	26,433	31,815	34,050

## BULLETIN ON SQUASH VINE BORER

A 24-page pamphlet on the squash vine borer has been issued by the Connecticut Agricultural Experiment Station at New Haven, as Bulletin No. 328. The pamphlet deals with the geographical distribution of the insect, its life cycle and habits and its control. The bulletin also contains a rather complete bibliography.

## EXPORTS OF CANNED FOODS IN SEPTEMBER

Shipments of canned foods to foreign countries in September were generally smaller than in the corresponding month of last year, although a few individual items showed gains. The export figures as compiled by the Department of Commerce follow:

Articles	September, 1930		September, 1931	
	Pounds	Value	Pounds	Value
Canned meats, total.....	1,317,228	\$459,105	1,083,743	\$293,805
Beef .....	55,035	22,264	89,941	24,052
Pork .....	798,796	308,476	799,013	231,493
Sausage .....	138,796	37,492	71,908	16,335
Other .....	324,001	90,873	122,881	21,925
Canned vegetables, total.....	8,409,664	782,130	2,974,395	263,731
Asparagus .....	1,015,890	154,331	708,011	106,440
Baked beans, and pork and beans .....	859,730	41,003	442,789	27,720
Corn .....	460,008	43,706	332,232	18,817
Peas .....	523,562	47,050	123,673	11,487
Soups .....	4,770,042	453,688	338,763	40,586
Tomatoes .....	372,804	27,219	662,664	33,256
Other .....	371,028	35,127	366,263	30,423
Condensed milk .....	1,478,684	255,439	1,308,899	213,815
Evaporated milk .....	3,451,777	313,595	3,659,135	269,609
Canned fruits, total.....	30,453,808	2,723,491	25,124,242	1,927,418
Apples and applesauce .....	214,000	12,526	277,589	19,830
Apricots .....	2,218,469	186,976	2,102,040	146,302
Loganberries .....	549,325	55,949	517,351	54,911
Other berries .....	174,605	24,200	130,019	15,093
Cherries .....	182,632	26,977	55,042	7,139
Fruits for salad .....	2,476,495	334,848	3,058,236	360,606
Grapefruit .....			377,476	24,924
Peaches .....	10,906,707	859,000	6,597,921	436,394
Pears .....	8,350,506	723,316	9,103,299	633,729
Pineapple .....	5,006,271	459,207	2,362,805	187,603
Prunes .....	114,124	11,231	180,848	9,325
Other .....	260,125	29,261	361,616	31,562
Salmon .....	5,538,234	1,050,257	3,706,029	645,647
Sardines .....	7,992,001	600,672	3,616,354	246,791

## CANNED TOMATO IMPORTS CONTINUE HEAVY

Imports of canned tomatoes continue to show an increase over last year's record. In September the imports totaled 3,405,354 pounds against 2,047,904 pounds in the same month last year. For the first three quarters of 1931 the imports have been about 21,287,000 pounds greater than during the corresponding period of 1930.

Tomato paste imports in September dropped to about 366,-



000 pounds, or about 1,000,000 less than in September last year. However, the receipts for the first three quarters of the year are still ahead of last year's imports.

1930	Canned Tomatoes		Tomato Paste	
	Pounds	Value	Pounds	Value
January .....	8,939,178	\$427,845	1,635,369	\$129,824
February .....	5,834,313	283,425	1,050,583	88,842
March .....	2,902,848	139,808	658,934	53,743
April .....	5,425,074	291,292	932,968	83,269
May .....	6,453,591	308,250	2,368,368	246,630
June .....	648,681	25,063	456,005	43,731
July .....	326,151	23,163	310,481	27,343
August .....	125,402	4,559	570,633	56,211
September .....	2,047,904	90,698	1,377,458	127,151
Total .....	32,703,142	1,594,103	9,361,390	856,744
1931				
	Pounds	Value	Pounds	Value
January .....	5,611,727	198,377	796,143	62,736
February .....	7,375,831	235,570	873,350	75,763
March .....	7,000,827	243,769	907,242	66,645
April .....	9,932,389	364,172	1,642,420	149,668
May .....	8,092,003	289,368	963,333	68,233
June .....	5,517,949	201,246	1,047,352	88,704
July .....	3,471,766	125,836	1,129,009	84,819
August .....	3,579,515	124,599	2,564,658	218,210
September .....	3,405,354	111,513	366,012	23,508
Total .....	53,987,961	1,894,450	10,380,149	838,286

#### RAPID GROWTH IN BRITISH CANNING INDUSTRY

Development of the British canning industry has been quite rapid during the last three years, according to the American commercial attache at London, and the returns for 1931 are expected to show a further increase over 1930, in which year 18,700,000 cans of fruit and 15,750,000 cans of vegetables were produced.

Experts had anticipated that the latest returns would double those for 1930, but 1931 has proved a bad fruit year for some fruits, notably plums, and this may prevent the attainment of such a high figure. The increase in the number of factories, however, may counterbalance this.

The principal cause of this striking development of the industry, it is claimed, is the outstanding success of the national marketing scheme introduced in 1930 and perfected for 1931. By standardizing output and coordinating canning methods, this scheme has enabled the home producer to compete for the first time on level terms with the long established and excellently ordered American export trade.

Home grown canned produce can now be obtained in a variety of fruits and flavors with which foreign countries do not compete, but the expanding consumption of which must affect the sales of imported canned fruits.

In the event of a customs tariff becoming an accomplished fact in Great Britain, and duties extended to cover certain food imports, it is probable that canned fruits and vegetables will have to meet an import duty.

### BUSINESS INDICATORS

(Weeks ended Saturday; weekly average 1923-1925=100)

	1931			1930		
	Oct. 24	Oct. 17	Oct. 10	Oct. 25	Oct. 18	Oct. 11
Composite Index:*						
New York Times.....	67.2	168.0	81.5	81.5	82.5	82.5
Business Week.....	70.2	172.5	83.8	84.8	87.2	87.2
Freight car loadings.....	70.4	70.7	100.1	97.1	90.6	90.6
Wholesale prices (Fisher's):						
All commodities.....	68.5	68.2	68.1	82.7	82.7	82.9
Agricultural products.....	54.3	53.9	54.0	83.9	83.7	84.1
Non-agricultural products.....	70.6	70.7	70.6	81.0	81.0	81.1
Bank debits outside New York City.....	91.5	79.6	107.6	121.7	110.7	120.3
Bond prices.....	94.8	95.4	96.3	107.2	107.7	108.2
Stock prices.....	99.7	94.3	93.4	171.1	173.5	178.2
Interest rates:						
Call money.....	60.6	58.2	30.4	48.5	48.5	48.5
Time money.....	78.1	68.6	61.3	68.6	68.6	67.7
Business failures.....	135.4	130.7	127.3	120.6	113.0	116.2

\*Relative to a computed normal taken as 100.

†Revised.

### CAR LOADINGS

	Total	Miscellaneous	Merchandise L. C. L.	Other
Week ended October 17.....	761,719	276,509	215,116	270,100
Previous week.....	763,864	288,646	217,539	257,679
Corresponding week, 1930.....	931,105	376,250	238,153	316,702
Corresponding week, 1929.....	1,185,504	486,991	271,809	426,704

### ICELAND PROHIBITS IMPORTATION OF CANNED FOODS

The Danish press reports that the importation into Iceland of certain articles, including canned foods, automobiles, and musical instruments, is prohibited, and the importation of motor trucks into that country is permitted only under special license, by virtue of an Icelandic Government decree recently put into effect.

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